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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FEDERAL INSURANCE COMPANY;

Plaintiff,

- against -

EXPEDITORS INTERNATIONAL OF WASHINGTON, INC.; EXPEDITORS INTERNATIONAL OCEAN; EXPEDITORS INTERNATIONAL FRANCE SAS; NEW ENGLAND MOTOR FREIGHT, INC.; FED EX TRADE NETWORKS TRANSPORT & BROKERAGE, INC.;

Defendants.

EXPEDITORS INTERNATIONAL OF  
WASHINGTON, INC.; EXPEDITORS  
INTERNATIONAL OCEAN; EXPEDITORS  
INTERNATIONAL FRANCE SAS;

Third-Party Plaintiffs,

- against -

AIR FRANCE; FEDEX TRADE NETWORKS  
TRANSPORT & BROKERAGE, INC.;

### Third-Party Defendants.

Plaintiff, through its undersigned attorney, alleges as follows for its amended complaint as to the Schedule B claim against the captioned defendants and third-party defendants:

1. Plaintiff Federal Insurance Company is a corporation organized under the laws of one of the fifty states with an office at 55 Water Street, New York, New York, and sues herein as subrogated cargo insurer, having paid the insurance claim of Trinity Biotech USA for the shipment described in the annexed Schedule B, which is incorporated herein by reference. Plaintiff also sues for and on behalf of the shipper consignee and owner of the respective cargo, as their interests may appear.

2. The Court has federal question subject matter jurisdiction, as well as pendent, ancillary and/or supplemental jurisdiction. Insofar as the claimed damage and loss arose during international air transportation, this action arises under a treaty of the United States, specifically the Convention for the Unification of Certain Rules Relating to International Transportation by Air, 49 Stat. 3000, T.S. No. 876 (1934) reprinted in note following 49 U.S.C. Sec. 1502 (the "Warsaw Convention"), and certain amendments thereto in effect in the country of origin and destination thereto at the time of shipment. Alternatively, this cause of action is governed by the Convention for Unification of Certain Rules for International Carriage by Air, Done at Montreal on 28 May 1999, reprinted in S. Treaty Doc. No 106-45, [1999 WL 33292734 \(2000\)](#) (entered into force Nov. 4, 2003) ("Montreal Convention"). To the extent the damage and loss arose during transportation by road, the Court has federal question jurisdiction based on the federal statutes and federal common law governing interstate transport, as well as pendent, ancillary and/or supplemental jurisdiction.

3. The defendants are believed to be corporations organized under the laws of certain of the fifty states and/or a foreign sovereign.

4. This Court has *in personam* jurisdiction over the defendants, who conduct business in the State of New York and/or within the United States as a whole within the meaning of pursuant to Rule 4(k)(2) Federal Rules of Civil Procedure.

5. This action involves misdelivery and damage to a temperature-sensitive shipment of laboratory reactivities and equipment described in Schedule B which was caused by defendants' and third-party defendants' fundamental breach of, and deviation from, the terms of the governing carriage contract, including the specific provisions for temperature-controlled care for which accessorial freight charges were paid.

6. As a result of the foregoing, plaintiff and those on whose behalf it sues, has sustained damages in the amount of \$38,985.60 for which defendants and third-party defendants are jointly and severally liable as common carriers, bailees and/or warehousemen for hire.

7. Plaintiff sues on its own behalf and as agent and trustee for and on behalf of anyone else who may now have or hereafter acquire an interest in this action.

WHEREFORE, plaintiff demands judgment against defendants jointly and severally in the amount of \$38,985.60 together with interest at the rate of 9% per annum and the costs of this action, together with such other and further relief as warranted by justices

Dated: New York, New York  
December 17, 2007

Law Offices  
DAVID L. MAZAROLI

*s/David L. Mazaroli*

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File No. 7C-1489

**SCHEDULE B**

Subrogated Insurer:	Federal Insurance Company
Plaintiff's subrogor:	Trinity Bioetech USA
House Air Waybill No.:	HAWB 410234350
Master Air Waybill No.:	MAWB 057-74608170
Dated:	November 2, 2006
NEMF Pro:	58316824
Dated:	November 10, 2006
Origin:	France
Destination:	New York
Commodity:	laboratory equipment
Claim Amount:	\$38,985.60
Expeditors Claim:	2060558076
FedEx Ref.:	3138414/001
Plaintiff's Ref.:	35339994/08
DLM File:	7C-1489